93-985

Supreme Court, U.S.
FILED
NOV 12 1993
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1993

JOSEPH BENNETT JR.

PETITIONER

V.

INDEPENDENCE BLUE CROSS AND

MANCHESTER INC.

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE JUDGMENT SUPREME COURT OF THE U.S.

APPENDIX (2) of (2) TO

PETITION FOR WRIT OF CERTIORARI

PRO SE

JOSEPH BENNETT JR.
312 HENDERSON AVE.
MILLVILLE, N.J. 08332
PHONE 609-825-5388

85pp

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ATTACHMENT "X": SEE INDEX PAGE v. (1) OF (2)	ONE COPY OF THE COMPLETE FILE SUBMITTED TO THE APPEALS COURT.(NOT RETYPED OR REDUCED IN SIZE).

(ATTACHMENT "H")

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. Civil Action
312 Henderson Avenue NO. 92-4249
Millville NJ 08332

v.

INDEPENDENCE BLUE CROSS
1901 Market Street FILED JUL 22 1992
Philadelphia, PA 19103

and

MANCHESTER, INC.
Mellon Bank Center
1735 Market Street
Philadelphia, PA 19103

COMPLAINT - CIVIL ACTION

1. Plaintiff, Joseph Bennett, Jr., is a white adult individual residing at 312 Henderson Avenue, Millville, New Jersey who was born on November 10, 1939.

2. Defendant, Independence Blue Cross ("IBC") is a corporation engaged in interstate commerce and is an employer in an industry affecting interstate commerce.

3. IBC's principal place of business is located at 1901 Market Street, Philadelphia, Pennsylvania.

4. At all times relevant hereto, IBC acted through its agents, servants and employees who were acting within the

course and scope of their agency and employment with IBC.

5. Defendant Manchester, Inc. is a corporation engaged in interstate commerce and is an employee in a industry affecting interstate commerce.

6. Defendant Manchester, Inc.'s principal place of business is located at Mellon Bank Center, 1735 Market Street, Philadelphia, Pennsylvania.

7. At all times relevant hereto, Manchester acted through its agents, servants and employees who were acting within the course and scope of their agency and employment with Manchester.

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. &1331.

9. This Court has pendent jurisdiction over plaintiff's state law claims.

10. All jurisdictional prerequisites to the bringing of this action have been satisfied.

11. Upon information and belief, plaintiff became an employee of IBC on or about March 23, 1980.

12. Plaintiff received annual evaluations from IBC due to his employment with IBC.

13. IBC rated plaintiff as satisfactory or better in each annual evaluation.

14. Upon information and belief, sometime before September 27, 1990, IBC and Manchester conspired to discharge plaintiff and other IBC employees who had worked with IBC for a long period of time.

15. Upon information and belief, IBC developed a plan or scheme to discharge plaintiff and other white males because of sex and race.

16. Upon information and belief, IBC developed a plan or scheme to discharge plaintiff and other employees who had worked with IBC for a long period of time.

17. Upon information and belief, Manchester was aware of IBC's plan or

scheme and conspired with IBC to conceal IBC's illegal intentions.

18. On or about September 27, 1990, plaintiff was discharged from the employ of IBC.

19. Subsequent to Plaintiff being discharged, Manchester conspired with IBC to conceal IBC's discriminatory purpose and intent when it discharged plaintiff.

20. Upon information and belief, IBC replaced plaintiff with a female who was younger than plaintiff.

21. Upon information and belief, IBC replaced plaintiff with the person identified in paragraph 20 because she was female and because she was younger

than plaintiff.

22. At all times relevant hereto, plaintiff was qualified for the position that he was discharged from by IBC.

23. At all times relevant hereto, plaintiff notified IBC that he was ready, willing and able to continue his employment with IBC.

24. Defendants, and each of them, acted intentionally and willfully.

25. The conduct of defendants, and each of them, constitute civil conspiracy.

26. In violation of Section 510 of ERISA, 29 U.S.C &1140, defendants, and each of them, interfered with plaintiff's

attainment of rights under severance or other cash benefit plans.

27. In violation of 29 U.S.C. &623, defendants, and each of them, discriminated against plaintiff because of his age.

28. In violation of 42 U.S.C. &&20000e, et seq., defendants, and each of them, discriminated against plaintiff because of his color.

WHEREFORE, plaintiff prays this court to:

A. Award plaintiff compensatory and punitive damages against defendants, and each of them;

B. Order defendant Independent Blue Cross to hire plaintiff with all benefits previously accrued;

C. Award plaintiff attorney fees and costs of this suit; and

D. Award plaintiff such other relief as this Court deems equitable and just under the circumstances.

Respectfully Submitted,

LITVIN, BLUMBERG, MATUSO & YOUNG

BY:

JOE H., TUCKER, JR., ESQUIRE

Attorney I.D. 56617

210 W. Washington Square

Fifth Floor

Phila., PA 19106

(215) 925-4500

Attorney for Plaintiff

VERIFICATION

I, JOSEPH BENNETT, Jr., hereby verify that the statements made in the foregoing COMPLAINT are true and correct to the best of my knowlegdge, information and belief. I understand that the statements herein are made subject ot the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

signature

J.Bennett Jr. 7/16/92

(ATTACHMENT "I-1")

CONTINGENT FEE AGREEMENT

I, Joseph Bennett, Jr., hereby retain the law firm of LITVIN, BLUMBERG, MATUSOW & YOUNG to represent me with respect to all claims arising out of my September 27, 1990, discharge from Independence Blue Cross occurring on or about the above date.

I agree that I will pay as fee for services rendered a sum equal to 33-1/3% of the total amount of the recovery on my behalf by way of settlement or verdict, after first deducting all reasonable and necessary costs incurred in the investigation and prosecution of the claim.

I understand that no settlement of the claim will be consummated without my prior approval.

I hereby acknowledge receipt of a duplicate copy of this Contingent Fee Agreement.

Signature

JBennett Jr

Witness

Elizabeth Bennett

Date 7/18/91

(ATTACHMENT "I-2")

M E M O R A N D U M

TO: BENNETT FILE

FROM: JHT

DATE: July 24, 1992

RE: BENNETT

On this day, I spoke to Joe Bennett pertaining to the Blue Cross litigation. Mr. Bennett stated that he was not able to gather $4,000 to give the firm to offset costs that might be incurred in this litigation. I never stated to Mr. Bennett whether such an arrangement would or would not be agreeable. He simply stated that he did not wish to have that type of arrangement. I stated to Mr.

Bennett that I found an attorney, Ronald V. Cole (569-3380), who would represent Mr. Bennett if he had $4,000 to put forth

stated that because he is unable to raise any money at this time, he does not wish to enter into such an arrangement with Mr. Cole and the only type of arrangement he would take would be a total contingency fee agreement without putting up any money.

JHT/jg

(ATTACHMENT "J-1")

June 3, 1993

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR.

VS. CIVIL ACTION

INDEPENDENCE BLUE CROSS, MANCHESTER, INC. NO. 92-4249

Dear Mr. Bennett, Jr.:

This is in response to your letter to Michael E. Kunz, Clerk of the U.S. District Court, dated 05/20/93; received by the Court on June 1, 1993.

A copy of the Memorandum of Decision dated January 13, 1993 and the Memorandum of Decision dated March 2, 1993 were sent to your former attorney

Joe H. Tucker, Jr.

A copy of all future correspondence and Court Orders will be sent directly to you at the following address:

Joseph Bennett, Jr.
312 Henderson Ave.
Millville, N.J. 08332

BY THE COURT:
signature
Margaret Gallagher, Deputy to
Judge Joseph L. Mcglynn, Jr.

cc:

Joseph Bennett, Jr.

Jeffery E. Fleming, Esq.

Steven R. Wall, Esq.

Bradley T. Beckman, Esq.

(ATTACHMENT J-2)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date prepared: 05/01/93

Joseph Bennett v. Independence Blue Cross and Manchester.

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: How long does it take to hand down a decision?

It is my opinion that the EEOC and the Federal Courts are using everything within their power to protect companies from prosecution for fraud and discrimination in the work place.

Note: I have documented dates, telephone calls, meetings, conversations etc. throughout this entire unbelievable experience.

Dear Sir:

FOR THE RECORD:

The only correspondence I have received from the court since filing my complaint July 22, 1992 are:

Notification by mail of the hearing dated September 2, 1992 (Hearing held September 25, 1992).

The judges decision concerning the hearing held September 25, 1992 which I received at the hearing.

Notification by mail of hearing dated November 18, 1992 (Hearing held December 11, 1992).

The only hope that the court has to squash this case and to protect those involved is to allow some statute of limitations to expire that I could not possibly know about without counsel, counsel that the court has willfully released from their contract and responsibilities in this matter.

You are just not going to get away with doing this to me!

I am alive and well. Ignoring this case

as if it did not exist and waiting for me to die is not a tactic that is going to be successful. My family has a history of its members living into their nineties and quitting is a word I don't understand.

The EEOC and the Federal Court of PA. have made every effort to keep the truth from being presented in this case. A case involving FRAUD and AGE DISCRIMINATION by Independence Blue Cross of PA. The tactic used by both the EEOC and the Federal Court is to ignore the case, hoping the I will give up. Facts contained in affidavits and other documents that substantiate the allegations in this case are being ignored.

The actions of the EEOC and the Federal Court have sent a message to employers stating that we don't care what you do to get an employee to sign a contract. Don't worry about committing fraud to convince a employee to sign a contract. If you can get a signed contract, we will do everything within our power to protect you against prosecution for fraud and discrimination.

It is my opinion that the Federal Court of PA ,like the EEOC, is trying to protect these companies against prosecution and to squash this case against IBC and Manchester. This opinion is a result of the following:

Judge Joseph L. McGlynn granted the motion of my attorney to be removed from

the case without reviewing the file. He ignored the information I presented at the hearing and granted the attorneys request solely on the word of the attorney. He granted the motion knowing that I was unable to get another attorney and that it would be very difficult to find another attorney that would work on a contingency basis. I still have not been able to obtain counsel that will work on a contingency basis which is the only arrangement I can afford. What person out of work can pay a lawyer $50,000 to get back his job? I have already spent hundreds of dollars trying to obtain counsel. The events in my case, the precedents set by the courts that protect employers in cases of fraud and discrimination, and the reputation of Judge L. McGlynn have made it impossible

for me to obtain counsel.

Judge Joseph L. McGlynn refused to rule or even acknowledge my motion for appointment of counsel or my request for a meeting to discuss a settlement between the parties in this case. His lack of knowledge of the information I have provided to the court indicates that he did not consider the case important enough to review the file before either of the two hearings before him.

Judge McGlynn acknowledged and acted on the motions of my former attorney and the defendants within weeks of their motions being presented to the courts. Judge McGlynn has treated me with contempt because I am not a lawyer and because of my lack of legal expertise.

In the opinion of lawyers I have consulted, my documents and arguments submitted to the court and defendants, are clear and to the point. Although the are not in the format that would be presented by an attorney, they meet the requirements of the court and substantiate my allegations in the complaint.

I feel I have provided sufficient evidence to the court that leaves no question that this case should be presented to a jury as requested in the complaint. I feel the actions of the court have demonstrated that I can not get fair treatment in this case unless it is decided by a jury.

This case comes down to the following:

(1)

Would anyone 'KNOWING AND VOLUNTARILY' sign a contract that would give an employer the right to discriminate against them? A contract that would allow the employer to fire them and replace them with a younger less qualified person in return for three months salary and benefits.

(2)

Did Independence Blue Cross Management LIE, CREATE FALSE IMPRESSIONS, and WITHHOLD INFORMATION when they administered a contract between the company and the employees they fired on September 27, 1990, Lies, false impression and withheld information that made it impossible for the employee to make an informed decision concerning

entering into a contract with the company? Does signing a contract under these conditions have any barring on the validity of a contract between two parties?

(3)

Did Independence Blue Cross discriminate against its older employees? Was it coincidence that approximately 80% of the fired employees were over 40 years old? Did Independence Blue Cross put into place a sophisticated plan to discriminate against the majority of its older employees months before the firing of 39 employees on September 27, 1990? A plan which included quietly maneuvering many of these older employees into other less critical positions under false pretenses. Positions where the company could later create a false impression

that they were eliminating these positions. A plan which included memos, meetings, and NEWS releases to convince the fired employees that their jobs were being eliminated. Did Independence Blue Cross contact employment agencies to fill these vacated positions only days after employees signed the contract administered by the company? Did IBC eliminate these position or were they filled with younger less qualified people?

(4)

Was Manchester, a company who's primary business involves employment related issues and information, so incompetent that they could not recognize, just from the physical appearance of these people, that IBC was discriminating against its older employees? Was Manchester so

incompetent that they did not understand that misrepresenting the potential of these older employees to find other employment at the same pay and position was supporting the plan by IBC to convince the employees to sign the contract with the company. Did Manchester ignore the obvious so they could benefit from this blatant act of discrimination by IBC.

I am asking the court to hand down a decision in the matter concerning the defendants motion to dismiss. Due to the fact that I am without counsel, I am asking the court to provide that decision in language that can be easily interpreted by a lay person.

In that decision I feel I deserve a clear

explanation of the courts position concerning the validity of a contract where lies, misrepresentation, and withholding of information is involved and a clear explanation of the courts interpretation of what constitutes age discrimination in the work place.

To those who take the time to read this letter, I want to assure you that everything I said is true and is documented in transcripts and other papers submitted to the EEOC and the courts. I am a 53 year old systems analyst who has been devastated by age discrimination by ruthless management, by my treatment at the hands of the EEOC, and by tactics being used by the Federal Court system.

My only goal is to get a fair trial and to present the facts in this case to an un-bias jury. If I loose, I had my chance and that is fine with me, but I, at least, want a chance to be heard by people who are not politically motivated to protect big business.

I certify that I have sent a copy of this letter certified mail, return receipt to the following:

Judge Joseph L. McGlynn, Jr.

Attorney General, Janet Reno

Congressman William Hughes

Senator Bill Bradley

Third Circuit Executive, John P. Hehman

Chief Judge, Louis C. Bechtle

Chief U.S. Magistrate Judge, Tulia Gene Leomporra

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

Sincerely,

Joseph Bennett Jr.

(ATTACHMENT J-3)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date prepared: 05/20/93

Joseph Bennett v. Independence Blue Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: THE ACTIONS OF THIS COURT REFLECTS ON THE CREDIBILITY OF OUR ENTIRE JUSTICE SYSTEM.

Dear Sir:

On May 1, 1993 I wrote to the court asking why it was taking so long for Judge McGlynn to hand down a decision in my case. Because of his actions throughout this proceeding, I suspected that Judge McGlynn's delay in deciding this issue was just another maneuver in behalf of the defendants. I did not believe that he would go so far as to withhold the decisions from me to jeopardize my right to appeal.

On May 12, 1993 I received a letter and MEMORANDUM OF DECISION dated March 2, from IBC's lawyer, Jeffery E. Fleming, telling me that Judge McGlynn notified him months ago of his decisions in the

case. On May 13, 1993, I received a docket that indicates that Judge McGlynn handed down two decisions, one in January and one in March, which he withheld from me. On May 19, 1993 I received a copy of a Memorandum of Decision concerning IBC dated January 13, 1993 also from Mr. Jeffery Fleming. Today is May 20, 1993 and I still have not received any correspondence from the court.

The court had no trouble getting a letter to me concerning the hearing for my lawyers motion to be removed as counsel. The court had no problem getting the written and signed decision of Judge McGlynn at the hearing before I left the court. I received the letter concerning the hearing for the defendants motion for dismissal of the case. From everything I

have seen, there is not one letter or document submitted by the defendants that did not reach me in the months that this case has been before the court.

Please do not insult me by telling me it was a mistake that I did not receive a copy of Judge McGlynn's decisions in January and March when both defendants received these decisions. Maybe one of them could have been lost in the mail, but both, who are you trying to kid? I am required to adhere to strict rules that I certify that everyone concerned in the case receives copies of everything submitted to the court. Do not tell me that a judge is exempt from any rules and he alone can withhold critical information from just the plaintiff in a civil case.

I have only received THREE (8.5 X 11) pieces of paper FROM THE COURT since filing my complaint July 22, 1992. One to notify of the hearing held September 25, 1992, one notifying me of his decision delivered by the court clerk at that hearing, and one to notify me of the hearing held December 11, 1992.

I do not believe that there are no guidelines or rules of ethics that a judge must follow in a civil proceedings.

The only way I feel a judge can get away with such actions is that he knows he will be protected and supported by his peers. This is something to be seen. I have been treated with contempt by Judge McGlynn throughout this entire process and his actions have provided

more support for the defendants than the lawyers for the defendants have provided themselves. The judge, by his actions, made it impossible for me to be represented by counsel. Throughout this entire matter he has advantaged the defendants, and not sending me a copy of the decisions in January and March was for no other purpose then to take away my right to appeal those decisions.

I have provided affidavits and letters to the court substantiating my accusations against the defendants. I have stated in letters to the court that I have a box of additional information and that there are a number of people who can verify the statements and that I intended to call these people as witness at a jury trial. I expected a jury trial, as requested in

the complaint where I would be represented by counsel and could present this evidence and prove my allegations against the defendants. Judge McGlynn turned the hearing held December 11, 1993 into a travesty of justice. A trial without jury or proper representation for me, the plaintiff. A trial where he had already advantaged the defendants by taking away my attorney and has created a threat to any other attorney by his actions in this case and his reputation in matters of discrimination. A reputation that was brought to my attention by almost every attorney I tried to retain. Judge McGlynn has done everything within his power to keep the evidence in this case from being presented to a jury. Evidence which the defendants know can be easily

produced and evidence that I feel Judge McGlynn is convinced I can produce. Judge McGlynn acted as both judge and jury at a hearing which should have required no more than what I had already submitted to the court to make a decision to let it be heard by a jury.

I did not understand that the hearing held December 11, 1993 before Judge McGlynn was going to be my trial without jury or representation. I did not know that, even though I had brought the entire box of letters and other documents to the hearing only for reference, that I had the right to submit that material to the court at that time. I do not believe that even if I know what was happening, that Judge McGlynn would have let me read the documents into the

record. In the transcript of the hearing you will find that Judge McGlynn refused to let me read the single letter I had prepared to be read into the record. A letter that I had to send to the court, after the fact, to make it part of the record of that hearing.

The attitude of the court, that has protected large companies in cases of fraud and discrimination in the past, encourages companies to commit fraud and discrimination because they feel the court system, the political environment, and the precedents set by other decisions will protect them against prosecution. The actions of the EEOC, the Federal Court of PA, and the people who are appointed to administer justice have betrayed the trust of the people and

dishonored the positions they hold. I am embarrassed for them because they no longer know the difference between right and wrong. They play lawyer games of favors, peer support, motions, procedures, political influence, and high finance. They have wallowed so long in legal procedures and politics that they are oblivious to the fact that these are just your everyday hardworking people appearing before them, looking for nothing more than fair treatment. They have made a mockery of our justice system by using their positions to favor those who can afford the high price of justice in their court. The title of Judge should be synonymous with justice, honesty, and compassion, but I have seen nothing that even vaguely resembles justice, honesty, and compassion in the Federal Court of

PA. The justice system is one of the primary representatives of our country and I take personal offense when the unjust actions of the courts, tarnish the credibility of that system.

Let me repeat the statement in my letter to the court dated May 1, 1993.
"YOU ARE JUST NOT GOING TO GET AWAY WITH DOING THIS TO ME".
LET ME ADD THAT, IF THERE IS A JUST DECISION IN THIS MATTER, EMPLOYERS, THE EEOC, AND THIS COURT WILL NEVER BE ABLE TO JOIN TOGETHER AND DO THIS TO ANYONE ELSE AGAIN.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter to the following attorneys for the defendants certified mail, return receipt to the following:

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

cc:

Third Circuit Executive, John P. Hehman

Chief Judge, Louis C. Bechtle

Chief U.S. Magistrate Judge,

Tulia Gene Leomporra

Judge Joseph L. McGlynn, Jr.

Attorney General, Janet Reno

Congressman William Hughes

Senator Bill Bradley

(ATTACHMENT K-1)

Morgan, Lewis & Bockius

Counselors at law

2000 One Logan Square

Philadelphia, Pennsylvania 19103-69936

Telephone (215) 963-5000

Fax (215) 963-5299

May 7, 1993

VIA CERTIFIED MAIL/

RETURN RECEIPT REQUESTED

RECEIPT NO. P 133 832 125

Joseph Bennett jr.

312 Henderson Avenue

Millville, N.J. 08332

Re. Bennett v. Independence Blue Cross

Civil Action No. 92-CV-4249

Dear Mr. Bennett:

We have received a copy of your May 1, 1993 letter to the clerk. It appears from your letter that you did not receive a copy of the Court's Memorandum of Decision, dated January 13, 1993, granting the Motion to Dismiss of Defendant Independence Blue Cross. Therefore, we have enclosed a copy of the Court's Memorandum of Decision, as well as the Court's Order of January 13, 1993 entering judgment in favor of Blue Cross and against you.

Sincerely,

signature

Jeffrey E. Fleming

Counsel for Defendant Independence Blue Cross

JEF/tmm

Enclosures

cc: The Hon. Joseph L. Mcglynn, Jr.

(w/o encls. - via hand-delivery)

(ATTACHMENT K-2)

Morgan, Lewis & Bockius

Counselors at law

2000 One Logan Square

Philadelphia, Pennsylvania 19103-69936

Telephone (215) 963-5000

Fax (215) 963-5299

May 17, 1993

VIA CERTIFIED MAIL/

RETURN RECEIPT REQUESTED

RECEIPT NO. P 133 832 131

Joseph Bennett jr.

312 Henderson Avenue

Millville, N.J. 08332

Re. Bennett v. Independence Blue Cross

Civil Action No. 92-CV-4249

Dear Mr. Bennett:

We have enclosed a copy of the Courts's January 13, 1993 Memorandum of Decision granting the Motion to Dismiss of Defendant Independence Blue Cross and the Court's Order of the same date entering judgment in favor of Blue Cross and against you. We inadvertently enclosed the Court's Memorandum of Decision and Order as to the Motion to Dismiss of Defendant Manchester, Inc. in our May 7, 1993 correspondence to you.

Sincerely,

signature

Jeffrey E. Fleming

Counsel for Defendant Independence Blue Cross.

JEF/tmm

Enclosures

cc: The Hon. Joseph L. McGlynn, Jr.

(w/o encls. - via hand delivery)

(ATTACHMENT "L")

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date: 06/18/93

Appeals court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue

Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: REQUEST FOR EXTENSION OF TIME TO APPEAL THE DECISIONS OF JUDGE JOSEPH L. MCGLYNN Dated January 13, and March 2, 1993.

Dear Sir:

I am requesting an extension of time under the Federal Rules of Appellate Procedures that gives me 180 DAYS FROM THE FINAL DECISION to appeal a decision by the court. I am not a lawyer and do not pretend to have the skills and experience of a lawyer. Number 4(a)(6) looks like the right rule, but I do not expect the court to use my lack of knowledge or access to lawyer information as an excuse to deny me this right if the

number is not the correct number for the rule.

I am asking the court to grant this extension based on the following: (Attachments provided)

1. The court never notified me of the decisions. As of the date of this letter I have not received an official copy of those decisions from the court.

2. My letter dated May 1, 1993 asking why it was taking so long to make a decision in this case.

3. The letter dated May 7, 1993 (RECEIVED MAY 12, 1993) from Mr. Jeffrey E. Fleming, attorney for Independence Blue Cross, indicating that the court had

notified the defendants months ago of the decisions. Included with this letter was a copy of the FINAL DECISION concerning this case which was the MEMORANDUM OF DECISION dated March 2, 1993, concerning the complaint against Manchester Inc., the other defendant in this case.

4. The letter dated May 17, 1993 (RECEIVED MAY 19, 1993) from Mr. Jeffrey E. Fleming, attorney for Independence Blue Cross, indicating that he had sent the wrong MEMORANDUM OF DECISION. Included with this letter was the MEMORANDUM OF DECISION dated January 13, 1993, concerning the complaint against Independence Blue Cross.

5. The letter dated June 3, 1993 from Margaret Gallagher indicating that the

MEMORANDUM OF DECISIONS dated January 13, 1993 and March 2, 1993 were sent to my former attorney Joe H. Tucker Jr who is no longer with the firm of Litvin, Blumberg, Matusow & Young. Mr. Tucker was granted his motion to withdraw as counsel only days after filing the complaint AND WAS NOT THE LAWYER OF RECORD. She did not include a copy of those decisions with the letter.

6. My letter to Margaret Gallagher dated June 6, 1993 indicating that I was having a difficult time believing her excuse for not getting the decisions to me.

7. The fact that on June 18, 1993, on the advice of an attorney, I tried to contact Mr. Joe H. Tucker at the firm of

Litvin, Blumberg, Matusow & Young concerning the letter from Mrs. Gallagher. Mr. Tucker is no longer with the firm. I was transferred to Mary Jane, the secretary for the senior partner, Mr. Young, Mr. Young was Mr. Joe H. Tucker's boss when he worked for that firm. Mary Jane said she could find no record that the firm received a copy of either decision.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter certified mail, return receipt to P. Douglas Sisk and the attorneys listed below.

Marcia M. Waldron, Senior Staff Attorney,

Appeals Court

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "M-1")

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 06/04/93 (07/04/93)

Re: My request that the Appeals Court assume responsibility for deciding on my request for extension of time to appeal because of the circumstances and the Judge who denied my request.

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

I am enclosing a copy of Judge Joseph L. McGlynn's decision. There was no indication in the letter I received that you were copied on this decision.

The MEMORANDUM from the Court dated June 29, 1993, states that "In view of the pending appeal to the Court of Appeals, it is questionable whether this court has jurisdiction to act on the request." It is my hope that you will look at the

facts carefully and determine that the jurisdiction of acting on this request lies with the Court of Appeals, not with Judge L. McGlynn who has taken every opportunity to advantage the defendants through out this entire matter.

The District Court, in their decision, has ignored their mistakes and the disadvantage they placed on me by these mistakes. I do not feel my request was unreasonable and even considering the fact that I did not know the time to file was reduced from 30 days to 7 days, the appeal was filed only 9 court working days after May 19, 1993, the date noted in the court decision.

I was not surprised that eventually Judge McGlynn would find a way to use a rule to

bury this case. Even with all his experience, he had to resort to withholding information on two occasions which was critical in continuing this complaint. Only after I filed the Appeal did he send the letter stating that he mistakenly sent the decision to the lawyer he released from the case months ago. I believed that it was an honest mistake until I later checked with the firm and they had no record of receiving EITHER decision. Two mistakes, two decisions not received, not believable.

I am not a lawyer, I don't know the rule numbers, and I don't know how to submit a motion that will impress the court. All I have is the documented truth concerning fraud and discrimination by the defendants and that should to be enough

to, at least, get this case before a jury. I feel my correspondence and documents to the court are clear and I should not be required to have them re-worded and re-formatted into a document that looks like a lawyer drafted them. I did submit one document where I used samples as a guide. I left in something about a rule that the lawyers for the defendants jumped on that I really did not understand. I don't feel I should be required to submit documents to the court that I don't fully understand just to meet their formal requirements.

I would ask the Appeals Court to assume the responsibility for deciding whether my request for an extension of time to file the appeal was justified considering the circumstances. I would also ask that

the Appeals Court grant my request to submit the missing document not included on the docket and the additional documents that were in the possession of lawyers looking at the case and not available for submission to the District Court.

All I am asking for is a fair and honest decision based on the facts presented in my letters and documents to the Courts.

Some of the lawyers I contacted expressed interest in the case if I could get the Appeals Court to agree to allow the case to proceed. In any case, I will not give up trying to get JUST treatment in our JUSTICE SYSTEM.

Thank you for your time and consideration in this matter.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter certified mail, return receipt to P. Douglas Sisk and the attorneys listed below.

Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

Jeffrey E. Fleming
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103-6993

(ATTACHMENT "M-2)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 07/12/93

Re: A COPY OF EVERY DOCUMENT AND LETTER RELEVANT TO THIS COMPLAINT THAT I HAVE AVAILABLE TO ME WITHOUT HAVING ACCESS TO THE DISCOVERY PROCESS. Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

Letter dated 06/04/93, Re: My request that the Appeals Court assume responsibility for deciding on my request for extension of time to appeal because of the circumstances and the Judge who denied my request, was dated incorrectly. The date that the letter was drafted was 07/04/93. I just noticed the error while I was reading over the letter.

Because I am not sure that I received a copy of all of the documents in the court file and the fact that the docket did not

list all of the documents that I submitted to the court, I am attaching a copy of everything that I have in my possession concerning my complaint. Also included are documents and other material that were not available earlier because they were in the hands of lawyers who I was hoping would take the case. I was hoping that I could obtain the service of a lawyer and he would submit the additional documents and other material in a format that would be more acceptable to the court. Due to the fact that I have been unsuccessful in obtaining counsel, I am submitting this material organized in a way that I feel will be easy for the court to use even though it is not in a format that the court is accustomed to seeing.

I am contacting a law firm that has expressed interest in my case.

Thank you for accepting my appeal. After reviewing the documents I have provided, I have confidence that you will find that my complaint was well founded. If I have the opportunity to use the discovery process, I am sure that additional information supporting my complaint will become available to the court.

I have made every effort to make sure that each copy is a duplicate by counting the pages and reviewing the material. Some of the copies were not very clear, but they would not copy because of the condition of the original. If you or the lawyers receiving this material need a clearer copy of any of the material, I

will try another printer to attempt to make a clearer copy of those specific pages as per the request.

Sincerely,

Joseph Bennett Jr.

I certify that I have hand delivered a copy of this letter and attached documents to P. Douglas Sisk and the attorneys listed below.

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "N-1)

ORIGINAL Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 08/30/93

Re:

RESPONSE TO ORDER DATED AUGUST 12, 1993.

REQUEST FOR RE-HEARING (EN-BANC)

Appeals Court Third Circuit docket No. 93-1680

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

This letter contains arguments for ruling in favor of the re-hearing before all of the judges on the appeals court.

1. The District court failed to supply me with a copy of either decisions from Judge McGlynn knowing that it would reduce the time to file an appeal from 30 to 7 days if and when I became aware the decisions had been handed down.

2. The court was not honest in their statement that they sent the copies of the decisions to my former attorney. I

contacted the firm and they did not receive a copy of either decision. The court did not respond to my letter inquiring about why judge McGlynn was taking so long to rule in this matter until the day I filed my appeal. The letter from the court was drafted the same day I filed my appeal and 30 days after my first inquiry to the court.

3. The attorney for IBC purposely confused the issue by sending me the wrong decision hoping to use up some of the 7 days allowed to file an appeal.

4. The Judge, Court, and the attorney for IBC knew exactly what they were doing concerning these decisions. They knew it was a pretty good bet that a person who is not a lawyer would not know that,

instead of 30 days to file an appeal, he would only have 7 under the rules of this trumped up situation.

5. The Appeals court sent me a copy of an ORDER implying that the decision was made by three judges. There was no indication that any of the judges was familiar with the material submitted by the Staff Attorneys office. After reviewing the material and ORDER, it leaves me with the impression that some clerk filled in some form letters and put it under the nose of one of the judges for a quick ORDER and signature. The document did not contain a single reference to the detailed account of the situation created by the District court and the attorney for IBC concerning the failure of the court to provide a copy of either decision, the

story the court came up with for not providing me with a copy of either decision, the failure of the attorney for IBC to send me a copy of the correct decision in his first letter notifying me that they had received both decisions months before my first inquiry to the court dated May 1, 1993, or the fact that the appeal was filed only a few days after the 7 day time requirement and well within the original requirement of 30 days from date of notification.

6. THE APPEALS COURT IS STATING IN THEIR ORDER THAT THEY AGREE WITH THE DISTRICT COURT THAT I SHOULD BE DEPRIVED OF MY RIGHT TO APPEAL BECAUSE OF THE MISTAKES OF THE DISTRICT COURT AND THE LAWYER FOR ONE OF THE DEFENDANTS. I DISAGREE WITH THE DECISIONS OF BOTH COURTS. THE

MISTAKES OF THE DISTRICT COURT AND THE LAWYER SHOULD NOT DISADVANTAGE ME AND DEPRIVE ME OF MY RIGHT TO APPEAL.

All of the above is documented in letters, and other material already provided to the courts.

Sincerely,

Joseph Bennett Jr.

I certify that I have provided a copy of this letter to the attorneys listed below.

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "N-2)

ORIGINAL Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 09/02/93

Re:

RESPONSE TO ORDER DATED AUGUST 12, 1993, DATE STAMPED AUGUST 31, 1993, RECEIVED SEPTEMBER 2, 1993.

(93-1550)

REQUEST FOR RE-HEARING (EN-BANC)

Appeals Court Third Circuit docket No. 93-1680

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Dear Ms. Waldron:

I did not notice that the ORDER I received on August 27, 1993 was specific to appeal (93-1680). I thought, as you stated in one of your letters, that 93-1550 and 93-1680 were considered one appeal. My response to the ORDER did not specify appeal (93-1680). Please note (appeal 93-1680) on my response dated

8/30/93 that the response was for ORDER and material dated August 12, 1993, date stamped August 24, 1993, received August 27, 1993. I want to make sure that there is no question concerning my responding to all documents received from the court.

I am attaching my response dated August 30, 1993 for ORDER related to appeal (93-1680) because everything stated in that response applies to the ORDER for appeal (93-1550).

My only additional comment concerning this ORDER is that, as did the ORDER for appeal 93-1680, this ORDER for 93-1550 looks like it was also created during the "sign it" "stamp it" routine for that day.

Sincerely,

Joseph Bennett Jr.

I certify that I have provided a copy of this letter to the attorneys listed below. A copy of the response to Order 93-1680 dated 08/30/93 was not included with the letter to the attorneys as they already have a copy of that letter.

Bradley T. Beckman

Beckman & Hunt

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